Sectt. II-27—46,004—21-10-27.

Law (8C) **(1928) Department.**

Uni SERIES.

G.O. No. 2001

DATED 9-6-1928

[Despatch Abstract.]

[illegible] - Overdraft of [illegible]

G.M.4868.

File or name

Disposal

C.F. 80—10,000—7-8-26.

DEPARTMENT.

Lr 17243

Received ..... 192 . *Registered* 27.3.1928

ASSISTANT SEC. TO GOVT. 27 MAR 1928 LAW DEPT

Subject

Law (General) Department

Endt:- 17243/1930-2

Referred to the Accountant-General for remarks. (By order)

A.S.Iyengar 27.3.28
Under Secretary to Govt.

28.3.28

To the Accountant-General

ENCLOSURES.
No. .....
.....
Spare copies .....

R.O.C. No. 874/28-D-2.

Station Madras, *Dated the* 23rd March 1928.

From (Name) A.C. Happell Esquire, I.C.S.,

(Designation) Registrar, High Court.

To The Secretary to the Government of Madras,

Law (General) Department.

Sir,

Increments overpaid and refunded-K.Ramaswami Ayyangar-redrawal-recommended.

Subsequent to 1-3-1925, one K.Ramaswami Ayyangar, an unpassed clerk in the District Munsif's Court, Kollegal, was paid Rs.21 by way of increments in excess of his initial pay of Rs.35. In June 1926, the Accountant-General requested the District Judge of Coimbatore to recover the amount overpaid to the clerk. In July 1926, the District Judge recommended that he might be exempted from the examination rules with reference to G.O.No.773 Law (Education) dated 3-5-26. He therefore suggested to the Accountant-General that the recovery might be held in abeyance pending settlement of the

question of his exemption. Thereupon, in August 1926, the Accountant-General stated that the amount had been outstanding in the objection books of his office for more than six months and suggested that the recovery might be effected and that, if necessary, the amount so recovered might be redrawn and paid to him on receipt of definite orders from the Government. The District Judge accordingly effected the recovery.

2. In G.O.No.47 Mis.(Public), dated 18th January 1927, the Government ordered that the clerk should stay at Rs.35 but that the recovery of increments drawn above that sum would be waived. Accordingly the amount recovered from the clerk was redrawn and paid to him. The Accountant-General, however, objected to the redrawal on the ground that the G.O. authorised only the waiver of recovery of increments paid in excess but not the refund of the amount already recovered. He added that if special sanction of Government had not been obtained for the refund of the recovered amount, the amount refunded should be recovered from the clerk. Accordingly the amount was recovered from the clerk. The District Judge requests that sanction of Government may be obtained for the refund of the amount to the clerk.

3. In this case, the amount in question would not have been recovered, had the Accountant General not suggested that it could be redrawn on receipt of orders from Government; and the Hon'ble the Judges, though they agree that the G.O. does not cover the refund of amounts already ~~received~~ recovered, consider that the clerk should not suffer, because the Accountant General did not want to keep the item outstanding in the objection books of his office. I am therefore to request that His Excellency the Governor in Council may be pleased to sanction the refund, to the clerk, of the amount recovered from him.

I have the honour to be,
Sir,
Your most obedient servant,

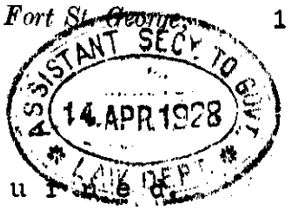
Registrar.

V.L. 8/2/13.

No. Jus.Coi. 681. OFFICE OF THE ACCOUNTANT-GENERAL, MADRAS,

Fort St. George, 11th April 192 8.

Enclosures.
One



Returned.

2. There is no audit objection to the sanction for the refund referred to in the Registrar's letter being accorded by Government.

VSR.

Assistant Accounts Officer.

To

The Secretary to the Government of Madras,
Law (General) Department.

Law (General) Dept.

Increments overpaid and ~~refunded~~ refunded – K. Rameswara Ayyangar, Clerk District Munsif Court – Kollegal Redrawal – Sanctioned.

C.No. 1724 B. From the Registrar High Court R.O.C No 874/28 D-2 Dt. 23.3.'28

C.No. 2089. B. From the Accountant General No Jus/Coi 681. Dt. ~~6.3.28~~ 31.4.'28

K.S

In the circumstances stated the High Court's proposal may be agreed to. There is no audit objection to the proposal. A draft order is submitted. It may issue with the concurrence of the Finance Department.

24.4.28 Jin (M.O)

CURRENT NO. 1957 PUBLIC

L.G. No. 2089 B. 23.4.28 23.4.28

1472491.

Finance & R.

CURRENT NO. ~~0954~~ "PUBLIC"

The remarks of the Public Dept may be invited in the first instance.

28.4.28

L.G. No. 2089 B-2 28.6.28.

1.5.28.

Law. Law (Gen.)

Jm No 1472491 1-5-28

The file may be passed on to Public. 2-5-28

2-MAY 1928 LAW DEPARTMENT

Recd on 5 from Public(S).

5/28 2.5.28

Public Deptt.

Please see the letter from the High Court on pp 1-2 of K. Ramaswami Ayyangar is an unpassed and unexempted clerk - vide No. 73 under Coimbatore on page 8 of G.O. No. 47 Public, dated 18.1.27. He was permitted to draw increments in the time-scale. This procedure was pointed out to be irregular in G.O. No. 164 Law (Edn) dated 4.2.25. Even after the issue of that G.O. he appears to have been allowed increments to the extent of Rs 21-0-0. Under para 2 of G.O. No. 694 Pub & 15.7.1926 such cases should be reported to Govt. for orders.

2. In June 1926 the A.G. objected to the payment of the above irregular increments and ordered its recovery. The amount was recovered. Later on, the Govt. fixed the pay of this clerk at Rs 35/- along with other clerks of the Judicial Deptt who are similarly circumstances. The Govt. also waived the recovery of any excess increments drawn by the above unpassed clerk - vide para 1 of G.O. No. 47 Public, dated 18.1.27. On the strength of this order the St. Judge appears to have redrawn from the Treasury the excess amount recovered and paid it to the clerk. This was not warranted by the G.O. The A.G.

¶ 2 of

rightly objected to the above procedure and recovered the amount from the Clerk. Ramaswami Ayyangar's case is somewhat analogous to that of Amirtharaj disposed of in G.O. No. 561 Public, dated 22.6.27. The Govt refused to waive recovery of excess pay drawn by him - vide pages 3-5 and 19 of the G.O. (V) 3. The High Court recommends that the amount may be refunded on the ground that it would not have been recovered had it not been for the A.G. who advised recovery first and subsequent re-drawal, if Govt permitted refund. The High court's argument is weak. a euphemism When the clerk had been allowed ~~irregular increments~~ increments contrary to the orders of ~~Govt and Govt to keep pace to book, the~~ precisely. Govt, it is the duty of the head of the Deptt to assist the A.G. in recovering the amounts overdrawn. The irregular increments were rightly recovered from the clerk as being overdrawn and there is no point in refunding the amount to him to which he is not entitled. Amounts recovered are not usually refunded and there seems to be little justification in treating this as a special case - vide para 3 of Finance note on ¶ 12 of G.O. No. 877 Public, (M) dated 9.10.26, the notes and D.O. on (V) the 9-12 of G.O. No. 1169 Public, dated 21.11.27

and the last sentence of G.O. No. 97 Public, dated 3.2.1928. 1 2 7 (F) 8/21/5

Submitted for orders whether the refund asked for may be refused. If so the file may be returned to Law.

98 16/5/28. 2K 16/5/28

I invite attention to the remarkable statement underlined § in §3 of the H.C.'s letter. In other words, the D.J. would have refused to effect a legitimate recovery. This attitude should, I submit, be refuted condemned. in any reply given.

The case simply amounts to this: by slack office work (to which I am this clerk twice drew money he was not entitled to; i.e., say the H.C., the poor fellow should get it repaid to him. I suspect the man had a considerable share in getting a complaisant D.J. to pass the wrong order & can see no case whatever for interference in his favour by Govt. & would tell the H.C. so.

Rub(ric) U.O. 1937-1 23/5/28

hwj 18.5.28

I agree Hbl 21/5 C1 24/5

ASSISTANT SECRETARY TO GOVT. OF MADRAS 23 MAY. 1928
UNDER SECRETARY TO GOVT. OF MADRAS 23 MAY 1928
UNDER SECRETARY TO GOVT. OF MADRAS 21 MAY 1928
CHIEF SECRETARY TO GOVT. OF MADRAS 23 MAY. 1928
23 MAY 1928

Law (General) Dept.

Secy

A revised draft order vetoing the proposal of the High Court is put up. Para 2 of the draft may go to the Public Dept. for acceptance

28.5.28

31.5.28

Public.

L. G. 20898-3
31/5

A redraft of § 2 is suggested in pencil

31.5.28

Secy

I think § 2 may be omitted.

1.6.28

Law Gen. Dept.

Law. U.O Secy.

Pub. (mil) U.O. 19394
1.6.28

For orders as to circulation.

§ 2 was included in the draft at the instance of Public Dept. they now suggest that it should be omitted. As the file was then circulated to H.H.C.I it should go to him again.

6.6.28

C.I. 6.6.28

Secy

Para. 2 of the draft has been deleted. It may now issue.

Issue 7.6.28

Sectt. II-5 (a)—38,004—26-10-27. (6)

10/9/6 Law (General) DEPARTMENT.

	Date.	Initials.
When received for Fair-copying.		
When copied ..	9/6	
When examined ..	9/6/28	
When signed ..		
When despatched ..		

Establishment -
District Munsifs Court -
Kollegal. Overdrawal of increment.
refund - Refused.

'READ AGAIN G.O. No. ....., dated ..... 192 .

" " " " ..... " ..... 192 .

READ ALSO :—

p. 2 CF C. No. 1724 B From the Registrar High Court Roc No. 874/28 D-2, dated 23.3 1928.

p. 3 CF " " 2089 B " " Accountant General " Jud/Ci 681 " 11.4 1928.

" " ..... " " ..... " ..... " ..... 192 .

ORDER. No. 2001, dated 9/6/1928.

p. 1-2 CF

The Government are unable to accept the recommendations of the Hon'ble the Judge that the amount overpaid to K. Ramaswamy Ayyangar Clerk District Munsif's Court Kollegal, Coimbatore District and since recovered from him, should be refunded to him.

2. The Government deprecate the attitude of the District Judge in refusing to effect a legitimate recovery by recommending refund of an amount overpaid through neglect and rightly recovered afterwards.

To

The Hon'ble the C.J. with Cl. 9/11

The Accountant General thro' Finance.

The Finance Dept.

Copy to the District Judge Coimbatore.

9/6/28

29.5.28

AG 31.5.28

21/5/28